

REMARKS

In view of both the amendments presented above and the following discussion, the Applicant submits that none of the claims now pending in the application is anticipated under the provisions of 35 USC § 102 or obvious under the provisions of 35 USC § 103. Thus, the Applicant believes that all of these claims are now in allowable form.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, the Examiner should telephone Mr. Richard J. McGrath, Esq. at (703) 621-7140 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Claim Amendments

Claims 1, 7, 8 and 14 have been amended to delete the reference numbers included in these claims.

Rejections under 35 U.S.C. § 102

Claims 1, 2, 5-9 and 12-14 have been rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Appel et al (EP1206104, hereinafter "Appel"). Applicant respectfully traverses the rejection. For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. See *M.P.E.P.* § 2131; *M.P.E.P.* § 706.02. Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn. The Applicant

respectfully submits that Appel fails to teach, show or suggest, "the determination of a threshold noise level, by determining a local minimum value of the degraded speech signal $s'(t)$ ", which is a feature of both independent claims 1 and 8.

The Office Action (see page 3) has relied upon paragraphs [0019-0028] of Appel as disclosing the determination of a local minimum value of the degraded speech signal $s'(t)$. The Applicant respectfully disagrees.

In Appel, the estimated noise value N_e is estimated in the noise estimating means 41 (see Fig. 3) for the noise present in the input signal $s'(t)$. Paragraph [0024] furthermore teaches that this noise estimate is a predetermined value. This value may be based e.g., on the type of telephone link. Alternatively the level is determined from one of the representation signals ($R'(t,f)$). Paragraph [0025] then teaches that the minimum is put 'equal to a minimum loudness density N_e found in the frames of the representation signal $R'(t,f)$ '. Furthermore, paragraph [0026] teaches that in box 46 (Fig. 4), the noise value N_e is determined as 'the minimum value of the loudness found in the loudness degraded signal $R'(t)$ ', i.e., taken over the entire speech sample fed through the PESQM network. It is respectfully submitted that Appel would teach the skilled person would to determine the noise value as a global minimum value. Appel, thus, fails to teach or to suggest the determination of the minimum value of the degraded speech signal as a local minimum value.

By determining the minimum value as a local minimum value, the claimed invention provides an improved quality measurement system, which provides a robust and adequate talking quality indicator, even in the presence of variations in background noise level. It is respectfully submitted that the cited prior art clearly does not disclose nor suggest this feature. It is therefore respectfully submitted that present independent claim 8 is novel and non-obvious in view of the cited prior art.

Since dependent method claims 2-7 include the features of independent claim 1, it is respectfully submitted that claims 2-7 are allowable over Appel for at least the same reasons as independent claim 1.

Independent claim 8 is directed to an independent apparatus claim that corresponds substantially to independent method claim 1. It is respectfully submitted that Appel fails to disclose the claimed feature of claim 8 that the measurement means is arranged to determine a threshold noise level by determining a local minimum value of the degraded speech signal $s'(t)$. Analogous to the arguments above related to independent claim 1, it is also respectfully submitted that claim 8 is novel and non-obvious over the cited prior art.

Since dependent apparatus claims 9-14 include the features of independent claim 8, it is respectfully submitted that claims 9-14 are allowable over Appel for at least the same reasons as independent claim 8.

Appl. No. 10/564,462
Amdt. dated March 27, 2007
Reply to Office action of Dec. 1, 2006

Rejections under 35 U.S.C. § 103

Claims 3, 4, 10 and 11 have been rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Appel. Applicant respectfully submits that Appel does not disclose the claimed determination of a local minimum value of the degraded speech signal $s'(t)$, and the Office Action, therefore, has not set forth a *prima facie* case of obviousness. Accordingly, the § 103(a) rejection must also be withdrawn for at least substantially the same reasons as the § 102(b) rejection.

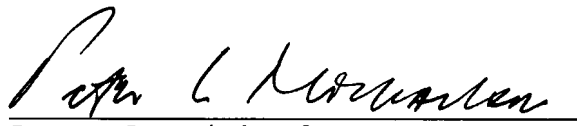
Conclusion

Thus, the Applicant submits that none of the claims, presently in the application, is anticipated under the provisions of 35 USC § 102 or obvious under the provisions of 35 USC § 103.

Consequently, the Applicant believes that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

Respectfully submitted,

March 27, 2007


Peter L. Michaelson, Attorney
Customer No. 007265
Reg. No. 30,090
(732) 542-7800

Appl. No. 10/564,462
Amdt. dated March 27, 2007
Reply to Office action of Dec. 1, 2006

MICHAELSON & ASSOCIATES
Counselors at Law
P.O. Box 8489
Red Bank, New Jersey 07701-8489



CERTIFICATE OF MAILING under 37 C.F.R. 1.8(a)

I hereby certify that this correspondence is being deposited on **March 28, 2007** with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to the Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



Signature

30,090
Reg. No.